

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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CHARLES J. **WINSLOW**, STEVEN T. MITCHELL,  
JAYNE KIRK, and CHARLES D. RAY  
Junior Party  
(Patent No. 6,083,225),  
v.

GARY KARLIN **MICHELSON**  
Senior Party  
(Application No. 09/605,001).

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Patent Interference No. 105,902 (SCM)  
(Technology Center 3700)

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1                   **DECLARATION – Bd. R. 203(b)**<sup>1</sup>

2                   **Part A. Declaration of Interference**

3                   An interference is declared (35 U.S.C. § 135(a)) between the above-  
4                   identified parties. Details of the application, patent, count(s) and claims designated  
5                   as corresponding or as not corresponding to the count(s) appear in Parts E and F of  
6                   this DECLARATION.  
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<sup>1</sup> “Bd. R. x” may be used as shorthand for “37 C.F.R. § 41.x”. 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

1           **Part B. Judge managing the interference**

2           Administrative Patent Judge Sally C. Medley has been designated to manage  
3       the interference. Bd. R. 104(a).

4           **Part C. Standing order**

5           A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this  
6       DECLARATION. The STANDING ORDER applies to this interference.

7           **Part D. Initial conference call**

8           A telephone conference call to discuss the interference is set for **1:30 p.m.**  
9       **on 2 October 2012** (the Board will initiate the call).

10          No later than **four business days** prior to the conference call, each party  
11       shall file and serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd.R. 120; Bd.R. 204;  
12       SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

13          A sample schedule for taking action during the motion phase appears as  
14       Form 2 in the STANDING ORDER. Counsel are encouraged to discuss the  
15       schedule prior to the conference call and to agree on dates for taking action.

16          A typical motion period lasts approximately eight (8) months. Counsel should be  
17       prepared to justify any request for a shorter or longer period.

1                   **Part E. Identification and order of the parties**

2                   Junior Party

3         Named Inventors:      CHARLES J. WINSLOW, Walnut Creek, CA  
4                                  STEVEN T. MITCHELL, Pleasant Hill, CA  
5                                  JAYNE KIRK, Alameda, CA  
6                                  CHARLES D. RAY, Williamsburg, CA

7  
8         Involved Patent:      Patent 6,083,225, issued 4 July 2000, based on  
9                                  application 08/889,661, filed 8 July 1997

10       Title:                   Method and instrumentation for implant insertion

11       Assignee:              Howmedica Osteonics Corp.

12                   Senior Party

13       Named Inventors:      GARY KARLIN MICHELSON, Venice, CA

14  
15       Involved Application   Application No. 09/605,001, filed 27 June 2000

16       Title:                   Apparatus and method of inserting spinal implants

17       Assignee:              Warsaw Orthopedic, Inc.

18       The senior party is assigned exhibit numbers 1001-1999. The junior party is  
19       assigned exhibit numbers 2001-2999. Bd.R. 154(c)(1); SO ¶ 154.2.1. The senior  
20       party is responsible for initiating settlement discussions. SO ¶ 126.1.

21                   **Part F. Count and claims of the parties**

22                   Count 1

23       Claim 14 of Winslow's 6,083,225 Patent

24                                  or

25       Claim 117 of Michelson's Application

1 The claims of the parties are:

2 Winslow: 1-26

3 Michelson: 105-129

4 The claims of the parties which correspond to Count 1 are:

5 Winslow: 1-3, 5-26

6 Michelson: 105-129

7 The claims of the parties which do not correspond to Count 1 are:

8 Winslow: 4

9 Michelson: none

10 The parties are accorded the following benefit for Count 1:

11 Winslow: application 08/615,379, filed 14 March 1996

12 Michelson: application 08/396,414, filed 27 February 1995, now  
13 patent 6,080,155, issued 27 June 2000

1           **Part G. Heading to be used on papers**

2           The following heading must be used on all papers filed in this interference,

3       see SO ¶ 106.1.1:

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10          CHARLES J. **WINSLOW**, STEVEN T. MITCHELL,  
11           JAYNE KIRK, and CHARLES D. RAY

12           Junior Party  
13           (Patent No. 6,083,225),  
14           v.

15          GARY KARLIN **MICHELSON**  
16           Senior Party  
17           (Application No. 09/605,001).

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19          Patent Interference No. 105,902 (SCM)  
20           (Technology Center 3700)

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22           **Part H. Order form for requesting file copies**

23          When requesting copies of files, use of SO Form 4 will greatly expedite  
24          processing of the request. Please attach a copy of Parts E and F of this  
25          DECLARATION with a hand-drawn circle around the patents and applications for  
26          which a copy of a file wrapper is requested.

27  
28           /Sally C. Medley/  
29           Administrative Patent Judge

1 Enc:

2 Copy of STANDING ORDER (March 2011)  
3 Copy of claims of Application 09/605,001  
4 Copy of Patent 6,083,225

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6 cc (via overnight mail):

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